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Circular

R15a

Duration of Copyright

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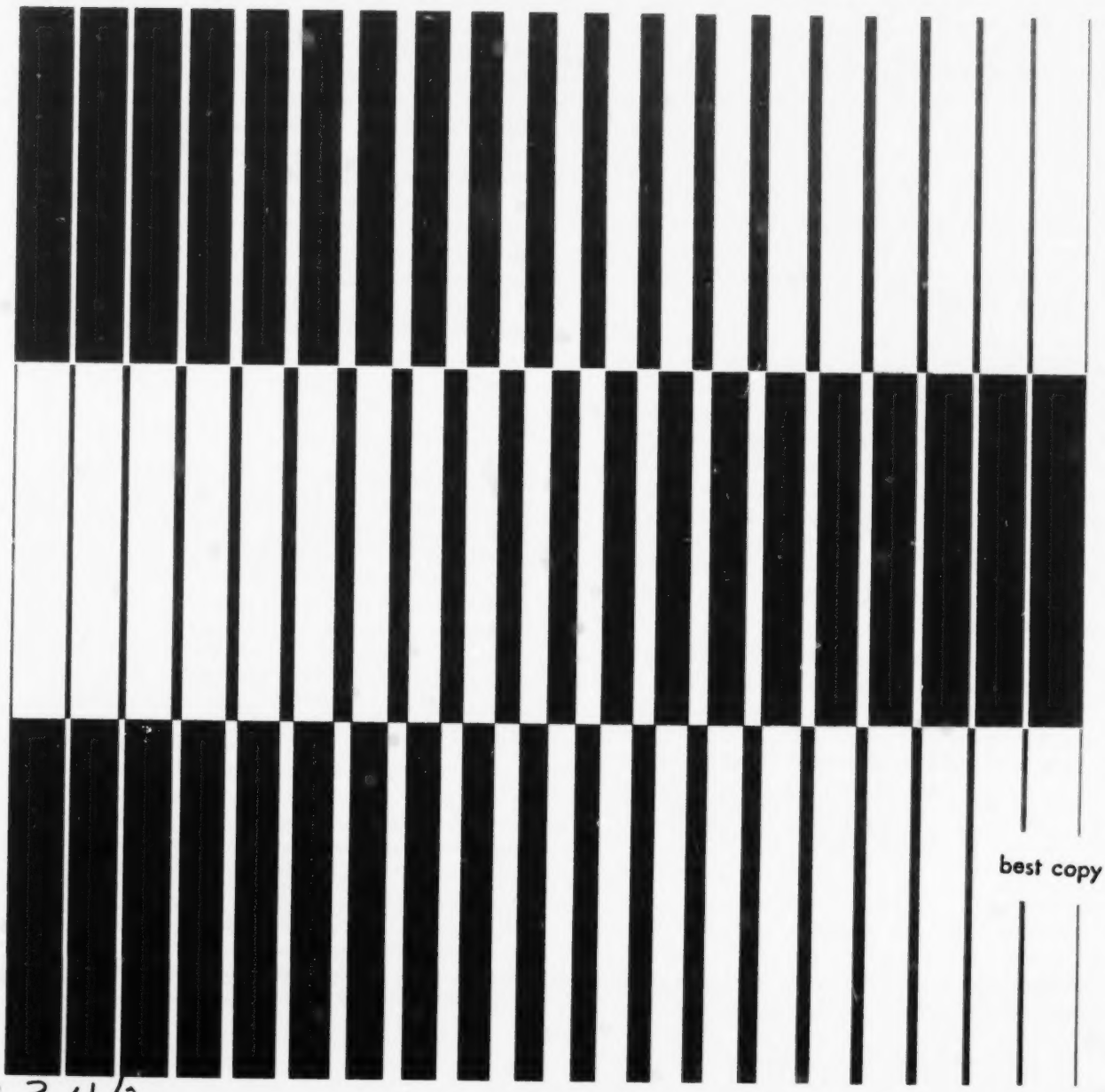

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Duration of Copyright

Provisions of the Law Dealing With the Length of Copyright Protection

SCOPE

This circular provides a general summary of the statutory provisions dealing with duration of copyright under the Copyright Act of 1976 which became effective January 1, 1978.

WORKS ALREADY UNDER STATUTORY PROTECTION BEFORE 1978

For works that had already secured statutory copyright protection before January 1, 1978, the 1976 law retains the old system for computing the duration of protection, but with some changes.

Duration Under the Old Law

Under the law in effect before 1978, copyright was secured either on the date a work was published, or on the date of registration if the work was registered in unpublished form. In either case, the copyright lasted for a first term of 28 years from the date it was secured. During the last (28th) year of the first term, the copyright was eligible for renewal. If renewed, the copyright was extended for a second term of 28 years.[1] If not renewed, the copyright expired at the end of the first 28-year term.

Effect of the Present Law on Length of Subsisting Copyrights

This system of computing the duration of protection for works copyrighted before 1978 has been carried over into the 1976 statute, but with one major change: the length of the second term is increased to 47 years. Thus, the maximum total term of copyright protection for works already protected by federal statute is increased from 56 years (a first term of 28 years plus a renewal term of 28 years) to 75 years (a first term of 28 years plus a renewal term of 47 years).

[1]For a number of copyrights, the second term was extended beyond 28 years by special legislation.

The specific situation for works copyrighted before 1978 depends on whether the copyright had already been renewed when the Copyright Act of 1976 came into effect, or was still in its first term on December 31, 1977.

- **Works originally copyrighted before 1950 and renewed before 1978:**[2] These older works have automatically been given a longer copyright term. Under the statute, copyrights that had already been renewed and were in their second term at any time between December 31, 1976, and December 31, 1977, inclusive, do not need to be renewed again. They were automatically extended to last for a total term of 75 years (a first term of 28 years plus a renewal term of 47 years) from the end of the year in which they were originally secured. **NOTE:** This extension applies not only to copyrights less than 56 years old, but also to older copyrights that had previously been extended in duration under a series of Congressional enactments beginning in 1962. As in the case of all other copyrights subsisting in their second term between December 31, 1976, and December 31, 1977, inclusive, these copyrights will expire at the end of the calendar year in which the 75th anniversary of the original date of copyright occurs.

- **Works originally copyrighted between January 1, 1950, and December 31, 1977:** Copyrights in their first 28-year term on January 1, 1978, will **still have to be renewed** in order to be protected for the second term. If a valid renewal registration is made at the proper time, the second term will last for 47 years (19 years longer than the 28-year renewal term under the old law). However, if renewal registration for these works is not made within the statutory time limits, a copyright originally secured between 1950 and 1977 will expire on December 31st of its 28th year, and protection will be lost permanently.

[2]A special transitional situation arose with respect to first-term copyrights that were originally secured in 1950, and that became eligible for renewal during the calendar year 1977. If renewal registration was made before January 1, 1978, the duration of the copyright was extended to the full period of 75 years without the need for further renewal. However, even if renewal registration was not made before January 1, 1978, renewal for the second 47-year term could be made under the new law at any time between January 1, 1978, and December 31, 1978.

Example: A work copyrighted in 1976 will be eligible for renewal in 2004. If renewed, it will be protected until 2051, but if renewal registration is not made at the proper time, copyright protection will expire permanently at the end of 2004.

Forms for renewal registration (Form RE) are available from the Publications Section, LM-455, Copyright Office, Library to Congress, Washington, D.C. 20559. For further information about the time limits and other requirements for renewal registration, write for Circular R15, *Renewal of Copyright*. For specific information about the extension of copyright terms for works already under statutory protection before 1978, write for Circular R15t, *Extension of Copyright Terms*.

WORKS ORIGINALLY CREATED ON AND AFTER JANUARY 1, 1978

For works that are created and fixed in a tangible medium of expression for the first time after January 1, 1978, the Copyright Act of 1976 does away with all renewal requirements and establishes a single copyright term and different methods for computing the duration of a copyright. Works of this sort fall into two categories:

- **Works created on or after January 1, 1978:** The U.S. copyright law, for works created after its effective date, adopts the basic "life-plus-fifty" system already in effect in most other countries. A work that is created (fixed in tangible form for the first time) after January 1, 1978, is automatically protected from the moment of its creation, and is given a term lasting for the author's life, plus an additional 50 years after the author's death. In the case of "a joint work prepared by two or more authors who did not work for hire," the term lasts for 50 years after the last surviving author's death. For works made for hire, and for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 75 years from first publication or 100 years from creation, whichever is shorter.

- **Works in existence but not published or copyrighted on January 1, 1978:** Works that had been created before the current law came into effect but had neither been published nor registered for copyright before January 1, 1978, automatically are given federal copyright protection. The duration of copyright in these works will generally be computed in the same way as for new works: the life-plus-50 or 75/100-year terms will apply to them as well. However, all works in this category are guaranteed at least 25 years of statutory protection. The law specifies that in no case will copyright in a work of this sort expire before December 31, 2002, and if the work is published before that date the term may be extended by another 25 years, through the end of 2027.

YEAR-END EXPIRATION OF COPYRIGHT TERMS

The 1976 law provides that all terms of copyright will run through the end of the calendar year in which they would otherwise expire. This affects not only the duration of copyrights, but also the time limits for renewal registrations. From now on, the last day of a copyright will be December 31st of that copyright's last year; and for works originally copyrighted between 1950 and 1977, all periods for renewal registration will run from December 31 of the 27th year of the copyright and will end on December 31 of the following year.

RENEWAL OF FOREIGN WORKS

The Renewals Section of the Examining Division now accepts renewal applications for foreign works eligible through the Universal Copyright Convention for protection in the United States at the time copyright was secured. Because registration under the U.C.C. is permissive, the Copyright Office may renew claims in such works without an original registration, accepting instead an affidavit and supporting exhibits. For further information, write or call the Public Information Office.

TERMINATION OF GRANTS

As explained above, for works already under statutory protection before 1978, the length of the renewal term has been increased to 47 years. This means that, in most cases, 19 years have been added to the end of a renewal copyright. The new statute also contains special provisions allowing an author, or specified heirs of the author, to file a notice terminating any grant of rights made by the author and covering any part of that added period of years. This right to reclaim ownership of all or part of the extended term is optional; it can be exercised only by certain specified persons in accordance with prescribed conditions and within strict time limits.

With respect to copyrights that are nearly 56 years old, and those that are already older than 56 years, the option of serving an advance notice of termination is now a possibility. For further information, write for Circular R96, Section 201.10, *Notices of Termination of Transfers and Licenses Covering Extended Renewal Term.*

SPECIAL POINTS TO REMEMBER:

- **Initial Registration of Works Published Before January 1, 1978: Works published with notice of copyright prior to January 1, 1978, must be registered and renewed during the first 28-year term of copyright to maintain protection.**
- **Copyrights originally secured between 1950 and 1977 must still be renewed. If not, they expire at the end of their 28th calendar year.**
- **Copyrights in their second term on January 1, 1978, are automatically extended up to a maximum of 75 years, without the need for further renewal.**
- **Works already in the public domain cannot be protected under the new law. The Act provides no procedure for restoring protection for works in which copyright has been lost for any reason.**

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